

In the Matter of Plumbing Inspector, City of Clifton
DOP Docket No. 2007-239
(Merit System Board, decided August 9, 2006)

The Division of Human Resource Management (HRM) requests that the provisions of *N.J.A.C.* 4A:4-3.2(a), which govern the ordering of names on open-competitive eligible lists, be relaxed to permit it to open the Plumbing Inspector, City of Clifton (City), examination with equal preference to all residents of the State of New Jersey.

By way of background, in 1991, the City of Clifton entered into a Consent Decree with the National Association for the Advancement of Colored People (NAACP), in which it agreed to adopt a new residency ordinance that did not give preference in selection and recruitment to residents of the City. As a result, the City repealed its residency ordinance and adopted a new ordinance requiring all applicants for employment to be residents of Essex or Passaic County at the time of application and appointment. Subsequently, with consent of the NAACP, the City amended the ordinance to also provide that “in the event that a qualified applicant is not available for those positions requiring certification or licensing by the State of New Jersey, the City of Clifton may seek applicants from Bergen, Morris and Hudson Counties.”

Recently, the City commenced recruiting applicants to fill the vacant part-time position of Plumbing Inspector. According to the Department of Personnel (DOP) job specification for the title of Plumbing Inspector, candidates for this title are required to possess a valid license as a Plumbing Inspector, either High Rise and Hazardous or Industrial and Commercial, issued by the Department of Community Affairs (DCA). As part of its recruitment efforts, the City obtained a list from the DCA of individuals with the required license who were located in Passaic, Essex, Morris, Bergen, and Hudson Counties. Approximately 140 letters were directed to such license holders notifying them of the part-time position available in the City. Six individuals responded to the City’s recruitment efforts, and only one candidate, who was located through “networking,” was willing to accept the part-time Plumbing Inspector position. However, this candidate is a resident of Sussex County. The individual was hired on a temporary basis, but he and the City wish to make his part-time employment permanent. The City obtained the consent of the NAACP, represented by David L. Rose, Esq., to expand the residency scope for the title of Plumbing Inspector to include all residents of the State of New Jersey, with no residency preference in the ordering of the list.

In the instant request, HRM outlines the difficulties encountered by the City in finding a qualified candidate within its residency scope. Thus, it requests that the provisions of *N.J.A.C.* 4A:4-3.2(a) be relaxed to allow the open competitive

examination for Plumbing Inspector to be announced open to all residents of the State of New Jersey with equal preference.

CONCLUSION

N.J.A.C. 4A:4-3.2(a)1 provides:

When an announcement is open to more than one local jurisdiction, the resulting list of eligibles shall be separated into sub-lists by the residency requirements provided by applicable law and ordinance.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause. In the instant matter, the City's residency ordinance provides that candidates for positions requiring a license must be residents of Passaic, Essex, Morris, Bergen, or Hudson Counties at the time of application and appointment. With regard to the title of Plumbing Inspector, the City was unable to attract a qualified applicant from these Counties, despite its best efforts, including a direct mailing to 140 residents of these Counties who hold the required license. Moreover, it is recognized that the NAACP, the other party to the Consent Decree governing the City's residency scope, has given its consent to expansion of the residency scope in this instance. In light of these factors, good cause has been presented to relax the provisions of *N.J.A.C.* 4A:4-3.2(a)1 in order that the subject open competitive examination may be announced open to qualified residents of the State of New Jersey. All qualified New Jersey residents who appear on the resultant eligible list shall be ranked in accordance with their scores, with equal residency preference.

ORDER

Therefore, it is ordered that this request be granted.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.